

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JERRY WEST, JR.,

Petitioner,

v.

BRIAN CATES,

Respondent.

No. 2:21-cv-00410-KJM-JDP (HC)

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

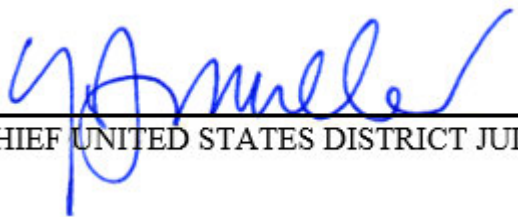
On May 17, 2022, the magistrate judge filed findings and recommendations, which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner has not filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court . . .”). Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed May 17, 2022, are adopted in full;
2. The motion to stay, ECF No. 10, is granted and petitioner is granted a *Kelly* stay;
3. Petitioner is directed to: (1) file an amended petition that contains only his exhausted claims, and (2) move to amend his new petition once he exhausts his claims in state court; and
4. This matter is referred back to the assigned magistrate judge for all further pretrial proceedings.

DATED: September 14, 2022.


CHIEF UNITED STATES DISTRICT JUDGE